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## ORGANIZATIONS DEMAND ACTION

On January 13 spokesmen of civic, commercial, industrial, and religious organizations of the country, with, it is said, 20,000,000 adherents, appeared in Washington and presented the appended statement to the President and to the Senate. Among the organizations represented were the American Rights League, the American Federation of Labor, the Association of Collegiate Alumnae, the League to Enforce Peace, the Dairymen's League, the National Education Association, the United Society of Christian Endeavor, the Federal Council of Churches of Christ in America, the Church Peace Union, the World Alliance of Churches, the Associated Advertising Clubs of the World, the General Federation of Women's Clubs, the National Council of Women, the National Women's Christian Temperance Union, the Order of Railway Conductors, the Brotherhood of Locomotive Firemen and Enginemen, and the League of Free Nations Association.

Their "manifesto" said:

"WASHINGTON, D. C., January 13, 1920.

*"To the President and to the Senate of the United States:*

"Peace is declared, but the United States is not a party to it. This nation helped to win the war and thus make peace possible, but the nation's treaty-making power, as yet, failed to ratify the treaty.

"At this solemn and critical moment, when our honor before the world is at stake, we met in Washington as the representatives of twenty-six national organizations which have expressed the carefully considered judgment of their millions of members by taking action in favor of the immediate ratification of the treaty of peace on a basis that will not require its renegotiation. It is to convey to you the imperative and overwhelming sentiment that supports this demand for ratification that has brought us to the national capital.

"As we assemble, we observe with deep satisfaction that the spirit of compromise is steadily working and we assume that the President and Senators now desire in good faith to get together and ratify forthwith the treaty of peace with its league-of-nations covenant.

"We represent organizations whose membership includes all parties and, speaking for them, we unhesitatingly affirm that the country desires peace at once.

"We urge immediate ratification, with such reservations as may secure in the Senate the necessary two-thirds, even though this may require from the treaty-making power the same spirit of self-denying sacrifice which won the war. The world should not wait longer for America to conclude peace."

The document was handed to the President's secretary at the White House. At the Senate it was presented to Senators Lodge and Hitchcock, as leaders of the largest and most distinct rival groups, and was supplemented by speeches from the delegation of Protestants, after which the Senators made non-committal speeches, indicating the precise state of the deadlock and the obstacles in the way of compromise.

## BI-PARTISAN NEGOTIATIONS GO ON

For a fortnight following the Jackson Dinner there were many attempts at mediation between the absolute reservationists, the "mild reservationists," and the group loyal to the President and standing for the treaty as drafted and presented to the Senate by him.

On January 23 Senator Frelinghuysen, speaking for a group of Senators of both parties, issued a statement that they would not be bound by any compromise that Senator Lodge might make. The effect of this, for a few days, was to put an end to negotiations; but pressure from within and without the Senate forced renewal of mediation tactics.

## THE TRIAL OF THE FORMER KAISER

## The Letter to Holland—The United States' Original Objections

Article 227 of the Treaty of Versailles reads thus:

The Allied and Associated Powers publicly arraign William II of Hohenzollern, formerly German Emperor, for a supreme offense against international morality and the sanctity of treaties.

A special tribunal will be constituted to try the accused, thereby assuring him the guarantees essential to the right of defense. It will be composed of five judges, one appointed by each of the following Powers, namely, the United States of America, Great Britain, France, Italy, and Japan.

In its decision the tribunal will be guided by the highest motives of international policy, with a view to vindicating the solemn obligations of international undertakings and the validity of international morality. It will be its duty to fix the punishment which it considers should be imposed.

The Allied and Associated Powers will address a request to the Government of the Netherlands for the surrender to them of the ex-Emperor in order that he may be put on trial.

This became the formal announcement of policy with the signing of the Treaty at Versailles, June 28, 1919. Since that time there has been considerable debate in Great Britain, France, and Holland, as well as in Germany, over the likelihood and the wisdom of an attempt to enforce this policy. In Great Britain especially there has been much dissent both on the grounds of equity and policy. But that finally the forces that included the article in the treaty have won their point and are determined to press it is shown by the following note sent to Holland, as coming from the Supreme Council of the Allies. The United States' present position with respect to this action has yet to be announced officially; but she opposed it when it was first broached.

## THE LETTER TO HOLLAND

Following is the letter to Holland:

"PARIS, January 15.

"In notifying by these presents the Netherlands Government and Queen of Article 227 of the Treaty of Versailles, a copy of which is annexed, which came into force January 10, the Powers have the honor to make known at the same time that they have decided to put into execution without delay this article.

"Consequently the Powers address to the Government of the Netherlands an official demand to deliver into their hands William of Hohenzollern, former Emperor of Germany, in order that he may be judged.

"Individuals residing in Germany against whom the Allied and Associated Powers have brought charges are to be delivered to them under Article 228 of the peace treaty, and the former Emperor, if he had remained in Germany, would have been delivered under the same conditions by the German Government.

"The Netherlands Government is conversant with the incontrovertible reasons which imperiously exact that premeditated violations of international treaties, as well as systematic disregard of the most sacred rules and rights of nations should receive as regards every one, including the highest placed personalities, special punishment provided by the peace congress.

"The Powers briefly recall, among so many crimes, the cynical violation of the neutrality of Belgium and Luxembourg, the barbarous and pitiless system of hostage, deportation en masse, the carrying off of young girls from the city of Lille, who were torn from their families and delivered defenseless to the worst promiscuity; the systematic devastation of entire regions without military utility, the submarine war without restriction, including inhuman aban-

donment of victims on the high seas, and innumerable acts against non-combatants, committed by general authority in violation of the laws of war.

"Responsibility at least moral for all these acts reaches up to the supreme head who ordered them, or made abusive use of his full powers to infringe, or to allow infringement upon the most sacred regulations of human conscience.

"The Powers cannot conceive that the Government of the Netherlands can regard with less reprobation than themselves the immense responsibility of the former Emperor.

"Holland would not fulfill her international duty if she refused to associate herself with other nations as far as her means allow in undertaking, or at least not hindering, chastisement of the crimes committed.

"In addressing this demand to the Dutch Government the Powers believe it their duty to emphasize its special character. It is their duty to insure the execution of Article 227 without allowing themselves to be stopped by arguments, because it is not a question of a public accusation with juridical character as regards its basis, but an act of high international policy imposed by the universal conscience, in which legal forms have been provided solely to assure to the accused such guarantees as were never before recognized in public law.

"The Powers are convinced Holland, which has always shown respect for the right and love of justice, having been one of the first to claim a place in the society of nations, will not be willing to cover by her moral authority the violation of principles essential to the solidarity of nations, all of which are equally interested in preventing the return of a similar catastrophe.

"It is to the highest interest of the Dutch people not to appear to protect the principal author of this catastrophe by allowing him shelter on her territory, and also to facilitate his trial, which is claimed by the voices of millions of victims.

"(Signed)

CLEMENCEAU."

The objections to the procedure outlined by the Supreme Council can be briefly summarized. First, let it be remembered that, at the second plenary session of the Peace Conference in Paris, held January 25, 1919, a commission was appointed to inquire into the whole matter of violation of international law by the Central Powers during the course of the war. This commission was called "The Commission on the Responsibility of the Authors of the War and on Enforcement of Penalties." The report drafted by this commission did not meet with the approval of the American and Japanese members. With the majority and the minority reports before them, however, the *Comité de Rédaction* drafted the series of articles on this subject, known as Part VII of the Treaty of Peace, and comprising Articles 227, 228, 229, and 230 of that instrument.

The dissenting Japanese members of the original commission raised an inquiry whether it can be admitted as a principle of the law of nations that a high tribunal constituted by belligerents can, after war is over, try an individual belonging to the opposite side; and, further, whether international law recognizes a penal law as applicable.

The two United States members of the commission submitted in some twenty pages its dissenting opinion, in which they contended: "That it is only through the administration of law enacted and known before it is violated that justice may ultimately prevail internationally, as it actually does between individuals in all civilized nations." The American representatives, like the Japanese representatives, opposed the declaration that enemy political leaders should be liable because they abstained from preventing, putting an end to, or repressing violations of the laws or customs of war. The American members felt, furthermore, that there was an uncertainty about the law to be administered, especially since it was proposed to proceed not only upon violations of the

laws and customs of war, but also upon violations of "the laws of humanity." They contended that a judicial tribunal can only deal with existing law, leaving to other forums infractions of the moral law. They could not see how from a legal point of view that the head of a State exercising sovereign rights is responsible to any but those who have confided those rights to him by consent, expressed or implied. In short, the American view was that in any attempt to try the Kaiser the proceedings should be confined to law in its legal sense. They believed in so doing they would avoid the inevitable criticism of permitting sentiment or popular indignation to affect their judgment. To their minority report the American representatives added a memorandum of the principles which should determine inhuman and improper acts of war. That suggestive memorandum follows:

1. Slaying and maiming men in accordance with generally accepted rules of war are from their nature cruel and contrary to the modern conception of humanity.

2. The methods of destruction of life and property in conformity with the accepted rules of war are admitted by civilized nations to be justifiable, and no charge of cruelty, inhumanity, or impropriety lies against a party employing such methods.

3. The principle underlying the accepted rules of war is the necessity of exercising physical force to protect national safety or to maintain national rights.

4. Reprehensible cruelty is a matter of degree which cannot be justly determined by a fixed line of distinction, but one which fluctuates in accordance with the facts in each case; but the manifest departure from accepted rules and customs of war imposes upon the one so departing the burden of justifying his conduct, as he is *prima facie* guilty of a criminal act.

5. The test of guilt in the perpetration of an act, which would be inhuman or otherwise reprehensible under normal conditions, is the necessity of that act to the protection of national safety or national rights measured chiefly by actual military advantage.

6. The assertion by the perpetrator of an act that it is necessary for military reasons does not exonerate him from guilt if the facts and circumstances present reasonably strong grounds for establishing the needlessness of the act or for believing that the assertion is not made in good faith.

7. While an act may be essentially reprehensible and the perpetrator entirely unwarranted in assuming it to be necessary from a military point of view, he must not be condemned as wilfully violating the laws and customs of war or the principles of humanity unless it can be shown that the act was wanton and without reasonable excuse.

8. A wanton act which causes needless suffering (and this includes such causes of suffering as destruction of property, deprivation of necessities of life, enforced labor, etc.) is cruel and criminal. The full measure of guilt attaches to a party who without adequate reason perpetrates a needless act of cruelty. Such an act is a crime against civilization, which is without palliation.

9. It would appear, therefore, in determining the criminality of an act, that there should be considered the wantonness or malice of the perpetrator, the needlessness of the act from a military point of view, the perpetration of a justifiable act in a needlessly harsh or cruel manner, and the improper motive which inspired it.

Under date of January 20, Baron Kurt von Lersner, Germany's chief representative at Paris, said: "I am absolutely sure the Dutch Government will never surrender the former German Emperor for trial on charges that are not provided for in any constitution, law, or any treaty regarding extradition. It is contrary to any law or any precedent. The feeling of the whole world in favor of peace is stronger than the feeling anywhere for revenge. I hope strongly that the allied statesmen will find a solution of this question that will leave the world in tranquility."